

RESOLUTION ANALYSIS

C.S.H.J.R. 10
By: Smithee
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the required qualifications for certain judicial offices should be strengthened to ensure the quality of the state's judicial system. C.S.H.J.R. 10 seeks to present this issue to Texas voters.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.J.R. 10 proposes an amendment to the Texas Constitution to revise the eligibility requirements to serve in the office of chief justice or justice of the Texas Supreme Court, which the constitution specifies are also the eligibility requirements for a presiding judge or judge of the Texas Court of Criminal Appeals and a chief justice or justice of a court of appeals, by requiring the 10 years of experience comprising part of those eligibility requirements to be continuous service while licensed in Texas and by including as an additional eligibility requirement that the person's license to practice law not have been revoked, suspended, or subject to a probated suspension during that time. The resolution increases from four to six the number of years next preceding a person's election as a district judge for which the person must have been a practicing lawyer or a judge of a court in Texas, or both combined, to satisfy the experience component of the eligibility requirements to serve in that office and includes as an additional eligibility requirement that the person's license to practice law not have been revoked, suspended, or subject to a probated suspension during that time. The resolution authorizes the legislature by general law to require additional qualifications to be eligible to serve as a district judge or as chief justice or justice of the supreme court.

C.S.H.J.R. 10 includes a temporary provision set to expire January 1, 2019, establishing that the amendment takes effect January 1, 2018, and applies only to an applicable justice or judge who is first elected for a term that begins on or after that date or who is appointed on or after that date.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.J.R. 10 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the resolution.

INTRODUCED

SECTION 1. Sections 2(b) and (c), Article V, Texas Constitution, are amended to read as follows:

(b) No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in the State of Texas [~~this state~~] and is, at the time of election, a citizen of the United States and of the State of Texas [~~this state~~], and has attained the age of thirty-five years, and has been a practicing lawyer licensed in the State of Texas for at least ten consecutive years, or has been a practicing lawyer licensed in the State of Texas and judge of a state court or county court established by the Legislature by statute for a combined total of [~~court of record together~~] at least ten consecutive years, during which time the person's license to practice law has not been revoked, suspended, or subject to a probated suspension.

(c) Said Justices shall be elected [~~(three of them each two years)~~] by the qualified voters of the state at a general election; shall hold their offices for staggered terms of eight [~~six~~] years; and shall each receive such compensation as shall be provided by law.

SECTION 2. Section 4(a), Article V, Texas Constitution, is amended to read as follows:

(a) The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge. The Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court, and the Presiding Judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. The Presiding Judge and the Judges shall be elected by the qualified voters of the state at a general election and shall hold their offices for staggered terms [~~a term~~] of

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 2(b), Article V, Texas Constitution, is amended to read as follows:

(b) No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in the State of Texas [~~this state~~] and is, at the time of election, a citizen of the United States and of the State of Texas [~~this state~~], and has attained the age of thirty-five years, and has been a practicing lawyer licensed in the State of Texas for at least ten consecutive years, or has been a practicing lawyer licensed in the State of Texas and judge of a state court or county court established by the Legislature by statute for a combined total of [~~court of record together~~] at least ten consecutive years, during which time the person's license to practice law has not been revoked, suspended, or subject to a probated suspension. The Legislature by general law may require additional qualifications to be eligible to serve as Chief Justice or Justice of the Supreme Court.

No equivalent provision.

eight [~~six~~] years.

SECTION 3. Section 6(b), Article V, Texas Constitution, is amended to read as follows:
(b) Each of said Courts of Appeals shall hold its sessions at a place in its district to be designated by the Legislature, and at such time as may be prescribed by law. Said Justices shall be elected by the qualified voters of their respective districts at a general election, for staggered terms [~~a term~~] of eight [~~six~~] years and shall receive for their services the sum provided by law.

SECTION 4. Section 7, Article V, Texas Constitution, is amended to read as follows:
Sec. 7. The State shall be divided into judicial districts, with each district having one or more Judges as may be provided by law or by this Constitution. Each district judge shall be elected by the qualified voters at a General Election and shall be a citizen of the United States and of this State, who is licensed to practice law in this State and has been a practicing lawyer or a Judge of a Court in this State, or both combined, for four [~~(4)~~] years next preceding the judge's [~~his~~] election,

who has resided in the district in which the judge [~~he~~] was elected for two [~~(2)~~] years next preceding the [~~his~~] election, and who shall reside in the [~~his~~] district during the judge's [~~his~~] term of office and hold the [~~his~~] office for the period of six [~~four (4)~~] years, and who shall receive for the judge's [~~his~~] services an annual salary to be fixed by the Legislature.

The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. The judge [~~He~~] shall hold the regular terms of the judge's [~~his~~] Court at the County Seat of each County in the [~~his~~] district in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem

No equivalent provision.

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The Court shall conduct its proceedings at the county seat of the county in which the case is pending, except as otherwise provided by law. The judge [~~He~~] shall hold the regular terms of the judge's [~~his~~] Court at the County Seat of each County in the [~~his~~] district in such manner as may be prescribed by law. The Legislature shall have power by General or Special Laws to make such provisions concerning the terms or sessions of each Court as it may deem

necessary.

The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

SECTION 5. Section 28, Article V, Texas Constitution, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A vacancy in the office of Chief Justice, Justice, or Judge of the Supreme Court, the Court of Criminal Appeals, or the Court of Appeals~~[, or the District Courts]~~ shall be filled by the Governor until the next succeeding General Election for state officers, and at that election the voters shall fill the vacancy for the unexpired term.

(c) A vacancy in the office of Judge of a District Court shall be filled by the Governor until the next succeeding General Election for state officers, and at that election the voters shall fill the vacancy for a full term, as specified by Section 7, Article V, of this constitution.

SECTION 6. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 85th Legislature, Regular Session, 2017, changing the eligibility requirements for a justice of the supreme court, a judge of the court of criminal appeals, and a justice of a court of appeals and changing the terms of office of those justices and judges and district judges.

(b) The amendment to Section 2(b), Article V, of this constitution takes effect January 1, 2018, and applies only to a chief justice or other justice of the supreme court

who is elected for a term that begins on or after that date, or who is appointed on or after that date.

(c) The amendment to Section 2(c), Article V, of this constitution takes effect January 1, 2018, and applies only to the term of a chief justice or justice of the supreme court that

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The Legislature shall also provide for the holding of District Court when the Judge thereof is absent, or is from any cause disabled or disqualified from presiding.

No equivalent provision.

SECTION 3. The following temporary provision is added to the Texas Constitution:

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(b) The amendment to Section 2(b), Article V, of this constitution takes effect January 1, 2018, and applies only to a chief justice or other justice of the supreme court, a presiding judge or other judge of the court of criminal appeals, or a chief justice or other justice of a court of appeals who is first elected for a term that begins on or after that date, or who is appointed on or after that date.

begins on the expiration of the term the length of which is prescribed by the subdivisions of this subsection. The term of a chief justice or justice of the supreme court who was elected or appointed before January 1, 2018, expires, unless the justice is otherwise removed as provided by law, at the end of the term to which the justice was elected or appointed. On the expiration of that term, the length of the next elected term for the chief justice or justice, unless otherwise removed as provided by law, is as follows:

(1) the three persons serving as justices of the supreme court whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve an eight-year term;

(2) the person elected to serve as chief justice of the supreme court at the general election for state officers held in 2020 will serve an eight-year term;

(3) the other two persons serving as justices of the supreme court whose terms to which the persons were elected or appointed expire on December 31, 2020, shall draw lots to determine the one of their places on the court for which a justice will be elected at the general election for state officers held in 2020 to serve a six-year term and the one of their places on the court for which a justice will be elected at the general election for state officers held in 2020 to serve an eight-year term; and

(4) the three persons serving as justices of the supreme court whose terms to which the persons were elected or appointed expire on December 31, 2022, shall draw lots to determine the one of their places on the court for which a justice will be elected at the general election for state officers held in 2022 to serve a six-year term and the two of their places on the court for which justices will be elected at the general election for state officers held in 2022 to serve an eight-year term.

(d) The amendment to Section 4(a), Article V, of this constitution takes effect January 1,

2018, and applies only to the term of a presiding judge or other judge of the court of criminal appeals that begins on the expiration of the term the length of which is prescribed by the subdivisions of this subsection. The term of a presiding judge or other judge of the court of criminal appeals who was elected or appointed before January 1, 2018, expires, unless the judge is otherwise removed as provided by law, at the end of the term to which the judge was elected or appointed. On the expiration of that term, the length of the next elected term for the presiding judge or other judge, unless otherwise removed as provided by law, is as follows:

(1) the person elected to serve as presiding judge of the court of criminal appeals at the general election for state officers held in 2018 will serve an eight-year term;

(2) the other two persons elected to serve as judges of the court of criminal appeals at the general election for state officers held in 2018 will serve six-year terms;

(3) the three persons serving as judges of the court of criminal appeals whose terms to which the persons were elected or appointed expire on December 31, 2020, shall draw lots to determine the two of their places on the court for which judges will be elected at the general election for state officers held in 2020 to serve eight-year terms and the one of their places on the court for which a judge will be elected at the general election for state officers held in 2020 to serve a six-year term; and

(4) the three persons serving as judges of the court of criminal appeals whose terms to which the persons were elected or appointed expire on December 31, 2022, shall draw lots to determine the two of their places on the court for which judges will be elected at the general election for state officers held in 2022 to serve eight-year terms and the one of their places on the court for which a judge will be elected at the general election for state officers held in 2022 to serve a six-year term.

(e) The amendment to Section 6(b), Article V, of this constitution takes effect January 1, 2018, and applies only to the term of a chief justice or other justice of a court of appeals that begins on the expiration of the term the length of which is prescribed by the subdivisions of this subsection. The term of

a chief justice or other justice of a court of appeals who was elected or appointed before January 1, 2018, expires, unless the justice is otherwise removed as provided by law, at the end of the term to which the justice was elected or appointed. On the expiration of that term, the length of the next elected term for the chief justice or other justice, unless otherwise removed as provided by law, is as follows:

(1) for the First Court of Appeals:

(A) the five persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the three of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve eight-year terms;

(B) the persons elected to serve as justices at the general election for state officers held in 2020 will serve eight-year terms;

(C) the person elected to serve as chief justice at the general election for state officers held in 2022 will serve an eight-year term; and

(D) the other person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(2) for the Second Court of Appeals:

(A) the person elected to serve as chief justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the other three persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve an eight-year term and the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms;

(C) the persons elected to serve as justices at the general election for state officers held in 2020 will serve eight-year terms; and

(D) the person elected to serve as a justice

at the general election for state officers held in 2022 will serve an eight-year term;

(3) for the Third Court of Appeals:

(A) the four persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve eight-year terms;

(B) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(4) for the Fourth Court of Appeals:

(A) the five persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the three of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve eight-year terms;

(B) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(5) for the Fifth Court of Appeals:

(A) the person elected to serve as chief justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the other seven persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the four of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the three of

their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve eight-year terms;

(C) the persons elected to serve as justices at the general election for state officers held in 2020 will serve an eight-year term; and

(D) the persons elected to serve as justices at the general election for state officers held in 2022 will serve eight-year terms;

(6) for the Sixth Court of Appeals:

(A) the person elected to serve as a justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the person elected to serve as a justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as chief justice at the general election for state officers held in 2022 will serve an eight-year term;

(7) for the Seventh Court of Appeals:

(A) the two persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve a six-year term and the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve an eight-year term;

(B) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(8) for the Eighth Court of Appeals:

(A) the person elected to serve as a justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term; and

(C) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term;

(9) for the Ninth Court of Appeals:

(A) the two persons serving as justices whose terms to which the persons were elected or appointed expire on December

31, 2018, shall draw lots to determine the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve a six-year term and the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve an eight-year term;

(B) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(10) for the Tenth Court of Appeals:

(A) the person elected to serve as chief justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the person elected to serve as a justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(11) for the Eleventh Court of Appeals:

(A) the person elected to serve as chief justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the person elected to serve as justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(12) for the Twelfth Court of Appeals:

(A) the person elected to serve as a justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term; and

(C) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term;

(13) for the Thirteenth Court of Appeals:

(A) the person elected to serve as chief justice at the general election for state officers held in 2018 will serve an eight-year term;

(B) the other three persons serving as justices whose terms to which the persons

were elected or appointed expire on December 31, 2018, shall draw lots to determine the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the one of their places on the court for which a justice will be elected at the general election for state officers held in 2018 to serve an eight-year term;

(C) the person elected to serve as a justice at the general election for state officers held in 2020 will serve an eight-year term; and

(D) the person elected to serve as a justice at the general election for state officers held in 2022 will serve an eight-year term; and

(14) for the Fourteenth Court of Appeals:

(A) the five persons serving as justices whose terms to which the persons were elected or appointed expire on December 31, 2018, shall draw lots to determine the two of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve six-year terms and the three of their places on the court for which justices will be elected at the general election for state officers held in 2018 to serve eight-year terms;

(B) the person elected to serve as chief justice at the general election for state officers held in 2020 will serve an eight-year term;

(C) the person elected to serve as justice at the general election for state officers held in 2020 will serve an eight-year term; and

(D) the persons elected to serve as justices at the general election for state officers held in 2022 will serve eight-year terms.

(f) The amendments to Sections 7 and 28, Article V, of this constitution take effect January 1, 2018. The amendment to Section 7 applies only to the term of a district judge that begins on or after January 1, 2018. The term of a district judge who was elected or appointed before January 1, 2018, expires, unless the judge is otherwise removed as provided by law, at the end of the term to which the judge was elected or appointed. On the expiration of that term, the length of the next elected term for the judge of that district is six years.

(g) This temporary provision expires January 1, 2032.

(c) The amendment to Section 7, Article V, of this constitution takes effect January 1, 2018, and

applies only to a district judge who is first elected for a term that begins on or after January 1, 2018, or who is appointed on or after that date.

(d) This temporary provision expires January 1, 2019.

SECTION 7. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2017. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment changing the eligibility requirements for a justice of the supreme court, judge of the court of criminal appeals, and justice of a court of appeals and changing the terms of office of those justices and judges and district judges."

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2017. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment changing the eligibility requirements for a justice of the supreme court, a judge of the court of criminal appeals, a justice of a court of appeals, and a district judge."